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Attorney General Files Suit Against Two Arizona Kirby Vacuum Distributors

(Phoenix, Ariz. – June 8, 2004) Attorney General Terry Goddard filed a lawsuit today against two independent field distributors who make in-home sales of Kirby vacuums for allegedly violating the *Arizona Consumer Fraud Act*.

The first lawsuit names Kirby distributor Donald M. Burkhardt, doing business as Burkhardt's Company, and operating under the name Dyer Resources, Inc., among other names, as defendants. The second lawsuit names Kirby distributor Cameron S. McDaniel, doing business as All Generations, among other names, as defendants.

The lawsuits alleges the defendants gained access to consumers' homes through various telemarketing methods, which included falsely telling consumers they were entered into a drawing to win \$1,000 in groceries, and that also qualified for a demonstration of a cleaning method and the consumer would receive a "gift" such as a free carpet cleaning, in exchange for the consumers' opinions.

The telemarketers falsely implied that the defendants' were not selling products, and that the demonstration would only take a limited amount of time when in fact the defendants would actually spend several hours in a consumer's home making a sales presentation.

Other violations outlined in the lawsuits include:

- Knowingly selling vacuums to consumers, including elderly consumers, who were clearly unable to use the vacuum because it is too heavy and unwieldy.
- Depriving consumers of their rights under the federal "Cooling-off Rule" and Arizona's "Home Solicitation and Referral Sales Act," which rights include the three-day right to cancel and the right to the return of any trade-in or payment within 10 days after cancellation.
- Falsely informing consumers aged 65 and older who attempt to cancel the sale that the consumers may only cancel the sale within three-days. Kirby Company's "Golden Ager" policy actually allows consumers aged 65 or older to cancel the sale within one year of purchase.

"We are very concerned about any company that preys upon consumers, especially elderly consumers in their own homes," Goddard said. "The conduct by these two businesses is unacceptable and they simply should not be allowed to continue doing business in this way."

The Attorney General is asking the Pima County Superior Court to order that these defendants be permanently barred from conducting any in-home sales. The lawsuits also requests restitution for consumers, reimbursement for attorneys' fees and the costs of investigation, plus a penalty of up to \$10,000 for each willful violation of the *Arizona Consumer Fraud Act*.

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